

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department for Libraries and Archives
Archives and Records Management Division
(Amendment)

725 KAR 1:050. Records management program.

RELATES TO: KRS Chapter 171

STATUTORY AUTHORITY: KRS 171.450(2), 171.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(2) requires that the department shall enforce the provisions of KRS 171.410 to 171.740 by appropriate rules and administrative regulations. KRS 171.520 requires the department to prescribe the policies and principles to be followed by state and local agencies in the conduct of their records management programs; to ensure the maintenance and security of records deemed appropriate for preservation; to facilitate the segregation and disposal of records of temporary value and to promote the effective and economical use of space, equipment and supplies needed for the purpose of creating, maintaining, and servicing records. KRS 171.520 also authorizes the department to administer and grant any money appropriated to it for providing and improving records management programs of state and local agencies. This ~~[proposed]~~ administrative regulation is to assure uniform policies in the administration of grants to local governments for the improvement of records management programs.

Section 1. Eligibility of Applicants. Any local government office interested in improving the management and preservation of its public records may apply for a grant under the local records program by completing application forms available through the department. For the purposes of this program, a local government office should conform to the definition of "public agency" as cited in KRS 61.870(1).

Section 2. Application Procedures. All applications must be submitted on the official application form and include a detailed project description, plan of work, and budget request. Entries on the application form and any required supporting documents should be typed and completed as fully as possible, with additional sheets attached if necessary. In signing the application and in accepting a grant award, applicants agree, in carrying out their projects, to abide by specific conditions set by the department.

Section 3. Categories for Funding. Any project which seeks to improve the management and preservation of local public records will be considered. Categories for funding include, but are not limited to:

(1) Security microfilming vital (critical for the functioning of the office) or historically significant records using Archives and Records Management Division~~[Public Records Division]~~ standards. Security microfilming carried out with local records grant funds must be done through a micrographics laboratory or vendor~~[service bureau]~~ certified by the department and officially recognized by the State Libraries, Archives, and Records Commission~~[State Archives and Records Commission]~~. A list of the names of currently certified laboratories or vendors can be obtained from the department.

(2) Rerecording projects, for rerecording damaged records or records~~[originally recorded with a nonpermanent process and]~~ now losing their image, using archivally acceptable methods of recording on paper or microfilm.

(3) Document preservation projects, to carry out preservation or conservation measures on endangered records of major historical significance.

(4) Purchasing document conservation supplies.

(5) Establishing a local government records management program or archives. This could include hiring or partially subsidizing the salary of a qualified archivist who will work with department personnel in initiating a specific, time-limited project according to department standards. Requests for salary support will be evaluated on a case-by-case basis. Such funds are not designed for ongoing support, and they cannot be used to replace salary funds already being expended by the local government. They can be used as short term salary supplements.

(6) Arranging and describing archival holdings, according to standards and/or formats approved by the department.

(7) Purchasing supplies and equipment which promote preservation of or access to archival materials, including acid-free boxes and folders, shelving, and cabinets, ~~and equipment to read microfilm.~~

~~(8) Improving storage conditions, rehabilitating storage areas, installing physical security systems, or providing for adequate environmental conditions in areas where records are stored.]~~

(8) [(9)] Codification of ordinances for cities and counties, using a codification services vendor approved by the department. Funds are available for production of initial codes but not for code supplements.

Section 4. Grant Award Periods. Grants are awarded on a state fiscal year basis, and applicants are encouraged to design projects which can be completed during that period. Applicants with longer term needs are encouraged to identify phases into which their projects can conveniently be divided, and they are urged to carry out their work in stages, each of which could be eligible for grant support in future grant cycles, pending satisfactory completion of each stage.

Section 5. Grant Review and Evaluation. Applications are reviewed by the Local Records Grant Review Committee and the State Libraries, Archives, and Records Commission ~~[State Archives and Records Commission]~~. Recommendations of these groups are forwarded to the commissioner of the department, who makes the final decision on grant awards.

Section 6. Grant Review Criteria. In reviewing applications and recommending the funding of specific projects, reviewers judge the projects by criteria which may include the following:

(1) Urgency of the problem, significance and age of the records. The commission and other evaluation groups will pay special attention to those local government applicants with critical records problems and to those with older records and with chronologically complete groupings of records.

(2) Value as a model and type for size and geographical location of the local government. The program strives to assure equity in the geographic distribution of grant projects. The program includes projects in various types and sizes of local governments, and a major goal is to provide model projects in all areas of the state.

(3) Soundness of the proposed methods. The methods of handling the records should conform to generally accepted professional standards of records management and archival theory and practice.

(4) Commitment of local government resources to the project. The commission and other evaluation groups will give preference to local governments which commit some local resources to the proposed projects. Such support might take the form of adequate office, storage, or working space; personnel; supplies; equipment; or a monetary contribution. Evidence

of previous concern or commitment of support to improved local records management and preservation will also be important factors in the reviewers' evaluation.

(5) Commitment by the local government to maintain the program or the lasting benefit of a specific project. This could include provisions for maintaining the accuracy and currency of a grant-funded code of ordinances with annual supplements, providing adequate storage space, designating of a person or persons responsible for maintaining and adding to a local archives, adhering to all standards for archival microfilming, or being willing to assume the cost of future security microfilming of relevant records.

(6) Adequate security and protection of records. Local governments should house records in secure, fire resistant facilities, or should state how the proposed project will safeguard the records in question. Applicants should take into account the requirements of KRS 171.710 regarding the safeguarding of public records.

(7) Compliance with all legal requirements regarding custody and public access. This would include complying with the requirements of the state's Open Records Law (KRS 61.870-876) and providing access to the general public in an area with proper security and supervision.

(8) Commitment by the local government to a comprehensive records management program. This would include regular legal disposition of ~~[obsolete-]~~records in accordance~~[accord]~~ with the records retention~~[control]~~ schedules covering the records of a local government agency, and might also include files control, segregation of inactive or noncurrent material from active files, selective microfilming (where appropriate), and training of records personnel in records management techniques.

Section 7. Local governments which are awarded grants shall enter into a grant contract~~[agreement]~~ with the department which shall specify performance and reporting requirements. Failure to fulfill the requirements can result in the return of the grant to the department.

Section 8. Selection of Codification Services Vendors. The department, in approving established codification services vendors to participate in codification work funded with local records grants, wants to ensure~~[insure]~~ that basic criteria and professional standards are met. Criteria which may include, but are not limited to, the following are used as essential measures to approve prospective codification services vendors:

(1) Corporate stability and/or a history of reliable service, preferably to client governments in Kentucky.

(2) Experienced legal and editorial staff conversant with local government law and the technical and editorial requirements which must be met in producing accurate, usable codes of ordinances.

(3) Access to online~~[on-line]~~ statutory databases.[

~~(4) Modern word processing or computer assisted composition and typesetting capacity.]~~

~~(4) [(5)] The ability to provide code supplement services on a continuing basis[, through the use of subsection (4) of this section].~~

Applications from prospective codification services vendors are reviewed by an ad hoc advisory committee to the State Libraries, Archives, and Records Commission~~[State Archives and Records Commission]~~.

TERRY MANUEL, Commissioner

APPROVED BY AGENCY: July 2, 2021

FILED WITH LRC: July 6, 2021 at 11:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 21, 2021, at 10:00 a.m. Eastern Time at the Ken-

tucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Commission Room. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773. email Terry.Manuel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Terry Manuel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation outlines how the Department for Libraries and Archives will provide state and local agencies records management policies and guidelines, help ensure the maintenance and security of records and the proper retention and disposal of non-permanent records, and administer grant money to state and local agencies.

(b) The necessity of this administrative regulation: KRS 171.450 requires the department to enforce the provisions of 171.410 to 171.740 and KRS 171.520 requires the department to prescribe records management policies and principles for state and local agencies. KRS 171.520 authorizes the department to administer grant money to state and local agencies to improve records management programs. This administrative regulation will assure uniform policies in the administration of the grants to local governments.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 171.680 requires agencies to implement a sound and ongoing records management program, and to cooperate with the Department for Libraries and Archives in doing so. This regulation facilitates that cooperation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates cooperation between state and local government agencies and the Department for Libraries and Archives in implementing effective and efficient records management programs at agencies. It assures uniform policies in the administration of grants to local governments.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates the responsibilities of the department in the administration of records management programs and the administration of grant money. It updates the name of the Archives and Records Management Division.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure the regulation is current and up-to-date.

(c) How the amendment conforms to the content of the authorizing statutes: The statute facilitates the establishment of records management programs by the department and the administration of grant money.

(d) How the amendment will assist in the effective administration of the statutes: The amendment of this regulation will ensure that agencies have the most complete information in carrying out their records management programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All state and local government agencies must follow this regulation, as all have a responsibility to implement ongoing records management programs.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There will be no new responsibilities added to those already existing for public agencies under this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no new costs added to those already existing for public agencies under this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Agencies who comply with this regulation will recognize more effective and efficient business practices, will recognize cost savings from reduced records storage costs, and will document agency history more effectively.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs for agencies to implement this regulation. This regulation

(b) On a continuing basis: Same as (5)(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The activities involved in this regulation are already undertaken by public agencies.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No required increase is projected.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation does not establish or increase, directly or indirectly, any fees.

(9) TIERING: Is tiering applied? Tiering is not applied because this regulation applies uniformly to all public agencies.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All state and local government entities are required to follow records management guidelines made by the department enumerated in this regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 171.680(2)(b) requires agencies to cooperate with the Department for Libraries and Archives in managing its records. This regulation facilitates that cooperation.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no net effect on agencies' expenditures and revenues. Continued good records management results in cost savings for government and a more efficient operation of government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There will be no additional revenues generated for the first year because of this regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There will be no additional revenues generated for subsequent years because of this regulation.

(c) How much will it cost to administer this program for the first year? There will be no additional costs generated for the first year because of this regulation.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs generated for subsequent years because of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): \$0.00

Expenditures (+/-): \$0.00

Other Explanation: N/A